

JUN 20 2007

DOCKET No. 01-P-002
SERIAL No.: 09/871,463
PATENTREMARKS

Claims 1-20 were pending in the present application.

Claims 1-7 are withdrawn from consideration.

Claims 8-11 and 13-20 are rejected.

Claim 12 is objected to.

Claims 8 and 16 have been amended herein.

Claim 12 has been cancelled herein.

Claims 1-11 and 13-20 are currently pending in the present application.

Reconsideration of the claims is respectfully requested.

I. ALLOWABLE SUBJECT MATTER

The Office objected to Claim 12 as being dependent upon a rejected base claim, but suggested that Claim 12 would be allowable if it were rewritten in independent form including all the limitations of the base and intervening claims.

The Applicants thank the Office for this determination and respectfully traverse the Office's reasons for allowability given on page 6 of the April 20, 2007 Office Action.

II. CLAIM REJECTION UNDER 35 U.S.C. §102

Claims 16-19 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,054,383 to *Suzuki, et al.*, hereinafter "*Suzuki*". This rejection is respectfully traversed.

A prior art reference anticipates the claimed invention under 35 U.S.C. §102 only if every element of a claimed invention is identically shown in that single reference, arranged as they are

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in the claims. MPEP §2131, p. 2100-67 (8th ed., rev. 5, August 2006) (*citing In re Bond*, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990)). Anticipation is only shown where each and every limitation of the claimed invention is found in a single prior art reference. *Id.* (*citing Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987)).

Claim 16 has been amended to generally include limitations that were found in now cancelled Claim 12 such as, for example, requiring that the “a portion of an etch protective barrier layer over only a central region of the tungsten and within the opening, but not over peripheral regions of the tungsten within the opening *and over portions of the tungsten layer over the dielectric layer.*” This amendment adds no new matter and therefore the Applicants respectfully request that the Office enter this amendment.

The amendment to Claim 16 renders the §102 rejection to Claims 16-19 moot. For example, *Suzuki* fails to teach or disclose each and every required element of Claims 16-19, including, for example, a portion of an etch protective barrier layer over only a central region of the tungsten and within the opening, *but not over peripheral regions of the tungsten within the opening and over portions of the tungsten layer over the dielectric layer.*

Accordingly, the Applicants respectfully request the Office to withdraw the §102 rejection with respect to these claims.

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PATENT**III. CLAIM REJECTION UNDER 35 U.S.C. §103**

Claims 8-11, 13 and 14 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,103,625 to *Marcyk, et al.*, hereinafter “*Marcyk*” in view of *Suzuki*. This rejection is respectfully traversed.

In *ex parte* examination of patent applications, the Patent Office bears the burden of establishing a *prima facie* case of obviousness. MPEP §2142, p. 2100-125 (8th ed., rev. 5, August 2006). Absent such a *prima facie* case, the applicant is under no obligation to produce evidence of nonobviousness. *Id.* To establish a *prima facie* case of obviousness, three basic criteria must be met: *Id.* First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. *Id.* Second, there must be a reasonable expectation of success. *Id.* Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *Id.* The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant’s disclosure. *Id.*

Claim 8 has been amended to generally include limitations that were found in now cancelled Claim 12 such as, for example, requiring that the “*an etch protective barrier layer overlying portions of the tungsten layer within the openings but not overlying portions of the tungsten layer over the dielectric layer.*” This amendment adds no new matter and therefore the Applicants respectfully request that the Office enter this amendment.

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The amendment to Claim 8 renders the §103 rejection to Claims 8-11, 13 and 14 moot. For example, *Marcyk*, either alone or in any combination with *Suzuki*, fail to teach or disclose an “an etch protective barrier layer *overlying portions of the tungsten layer within the openings but not overlying portions of the tungsten layer over the dielectric layer*,” as currently required by Claim 8 and its dependents, Claims 9-11, 13 and 14. Moreover, there is no suggestion or motivation within *Marcyk* or *Suzuki* to prompt one of ordinary skill to selectively combine discrete elements from each and then *seek out* still others, as required by Claim 8 and its dependents, Claims 9-11, 13 and 14.

Accordingly, the Applicants respectfully request the Office to withdraw the §103 rejection with respect to these claims.

III. THE OFFICE'S RESPONSE TO APPLICANTS' PREVIOUS ARGUMENTS

The Office provides a response to the Applicants' previous arguments on pages 7 and 8 of the April 20, 2007 Office Action. The Applicants respectfully traverse this response.

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CONCLUSION

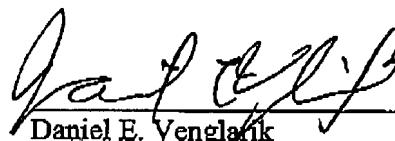
If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at dvenglarik@munckbutrus.com.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

MUNCK BUTRUS, P.C.

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